# IN THE HIGH COURT OF BOMBAY AT PANAJI

**CRIMINAL MISC. APPLCIATION (BAIL) NO. 161 OF 2007**
**AND**
**CRIMINAL MISC. APPLCIATION (BAIL) NO. 164 OF 2007**

**CRIMINAL MISC. APPLCIATION (BAIL) NO. 161 OF 2007**

Shri Jasvinder Singh
S/o Shri Sukhadev Singh
R/o Radaur, Dist: Yamunanagar
Harayana.
(presently lodged in Judicial Custody,
Mapusa, Bardez, Goa). .... Applicant

V/s

S T A T E
(Through P.I. Attached to
Calangute Police Station,
Calangute-Goa). .... Respondent

**AND**

**CRIMINAL MISC. APPLCIATION (BAIL) NO. 164 OF 2007**

Shri Amandeep Singh
S/o. Shri Raminderpal Singh
r/o 183, Premnagar, Karmal,
Haryana.
(presently lodged in Judicial Custody,
Mapusa, Bardez, Goa). .... Applicant

V/s

S T A T E
(Through P.I. Attached to
Calangute Police Station,
Calangute-Goa). .... Respondent

Mr. Menino Teles, Advocate for the Applicants.

Mr. C.A. Fereira, Public Prosecutor for the Respondent.

**Coram : N.A. BRITTO, J.**

**Date : 19th July, 2007**

**ORDER :**

Heard the learned Counsel on behalf of the Applicants and the learned Public Prosecutor on behalf of the Respondent.

2. The Applicants are accused in Sessions Case No.7 of 2007 against whom charge has been framed by the learned Sessions Judge under Section 302 r/w 34 IPC and whose bail applications have been rejected twice by the learned Sessions Judge by orders dated 09/05/2007 and 27/06/2007.

3. The deceased Dashrath Rathod, aged 35 years was an employee of Cheers Shack, managed by Antonio Fernandes.

4. The complaint was filed by another employee by name Ashok Chowhan on 4/03/07 stating that on 3/03/2007 at about 19.30 hours two unknown male persons within the age group of 25 to 30 years with the common intention caused stab injuries on the chest and back of Dashrath Rathod who succumbed to the injuries while undergoing medical treatment at Goa Medical College, Bambolim on 3/03/2007.

5. The post mortem report of the deceased Dashrath Rathod shows that the incident of assault took place at about 6.30 p.m. and the deceased died due to damage to the heart and lung vide injury no.1 caused by sharp, cutting and penetrating weapon which was antemortem, fatal and fresh at the time of death. The said postmortem report also shows that there were also other injuries on the deceased and the said first injury which was 12 cms deep had entered the chest cavity piercing the lower lobe of left lung and the heart. In other words, the depth of the injury reflects the force with which it was inflicted.

6. There appears to have been an incident of a fight at about 6.00 p.m. in the said Cheers Shack. The statements recorded of at least two of the employees/witnesses show that the deceased told them that he was assaulted by the two persons who were the same persons who were earlier involved in the fight with the staff at the Cheers Shack. The statement of Mohamad Shoukat another employee, shows that one of his workers had told him that the two persons whom he had closely observed near Bandodkar Statue at about 18.30 hours on 3/03/2007, were the same persons who earlier had a fight in the said Cheers Shack. Subsequently, both the accused were identified at the airport by the same witness namely Mohamad Shoukat as the persons who had created the problem at Cheers Shack and whom he had seen

on 3/03/2007 in the evening, and were arrested by the police. Although it appears that a test identification parade was held, none of the employees of the said Cheers Shack were able to identify the accused. Mohamad Shoukat who had identified the accused at the airport was not taken for the test identification parade presumably because he had identified both the accused at the airport. As per the investigations, the knife used to assault the deceased was recovered at the instance of accused Jasvinder Singh on 13/03/2007 being pointed out by him, thrown in the gutter. Learned Counsel on behalf of the Applicants submits that the said recovery of the knife was done from an open place and after a gap of about thirteen days. That would be a matter which would be required to be taken note of at the stage of appreciation of evidence and cannot be taken into consideration now as at this stage facts stated have got to be accepted on their face value. Learned Counsel further submits that there is no worker whose statement have been recorded identifying both the accused as the persons who had a fight or argument at the Cheers Shack at about 6.00 p.m. It may be so. Nevertheless, the fact remains when the said Shoukat was near the Bandodkar Statue he saw both the accused who according to him were drunk and when he was looking at them one worker of other water sports told him that they had created some problem at Cheers Bar and he believed the same and observed them more closely and subsequently on coming to know that the deceased was assaulted by the persons who had

created problem at Cheers Shack identified them at the airport to be the persons who had assaulted the deceased with a knife.

7. As rightly held by the learned Sessions Judge there is sufficient evidence at this stage to show, prima facie, the involvement of both the applicants in a serious offence of murder for which punishment could be severe. Considering the aforesaid facts, in my view, the Applicants would not be entitled to be admitted to bail.

8. Applications, therefore, are hereby rejected.

**N.A. BRITTO, J.**

NH/-